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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,191	09/14/2006	Frieder Grieshaber	06803/Z07918Q	7141

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THE PROCTER & GAMBLE COMPANY
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EXAMINER	
NGUYEN, TUAN VAN	

ART UNIT	PAPER NUMBER
3731	

MAIL DATE	DELIVERY MODE
08/25/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/574,191	GRIESHABER ET AL.	
	Examiner	Art Unit	
	TUAN NGUYEN	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *6/21/11*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1-9,12,13,15-20,22 and 23* is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1-7,9,12,13,15-18,20,22 and 23* is/are rejected.

8)☒ Claim(s) *8 and 19* is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

12)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-9, 12, 13, 15-20 and 22-23 are pending in this application.
2. This Office action is in response to the amendment filed on 06/21/2011.

Response to Amendment and Arguments

3. According to the amendment filed on 01/31/2011, claims 1-9, 12, 13, 15-20 and 22-23 have not been amended.
4. Applicant's arguments with respect to the rejection of claims 1-7, 9, 12, 13, 15-18, 20 and 22-23 under 35 U.S.C. 103(a) as being unpatentable over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of JP-2001-128728 A (hereinafter '728) have been fully considered but they are not persuasive.
    a. At page 5 of the Remarks, applicants argue that "the use of a motor in Floessholzer reference for the purpose of removing a depilation tape which has been in contact with the target skin for a sufficient amount of time to allow the depilation wax to cure, does not suggest the continuous winding of a tape for the purpose of depilation and concurrently providing a motive force for the epilator". Examiner disagrees. A drive motor can be configured to run continuously or intermittently or on demand. Examiner only relied on the teaching of using a drive motor to replace the thumb wheel 5 of Magnus device because it has been held that replacing

mechanical component with electro-mechanical component to improve efficiency of the device is old and well known in the art. Examiner did not proposed replacing the adhesive tape as disclosed by Magnus with a tape with wax as disclosed by Floessholzer.

b. At page 6 of the Remarks, Applicants argue that the Magnus reference teaches capturing hair and pulling it out in an intermittent manner would not benefit by an alteration of the device to have it move across the surface of the skin. Examiner disagrees. Figure 5 of Magnus' drawings show the device of Magnus is moving across the surface of the skin and plugging hair that trapped between the tapes 7, 7, thus, incorporating of drive motor would improve the effectiveness of the device because the motor will provide a continuous movement of the tapes to plug hairs out of skin when the device is being used on large surface area such as the arm, leg, and the back.

5. Applicant's arguments with respect to the rejection of claims 8 and 19 under 35 U.S.C. 103(a) as being unpatentable over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of JP-2001-128728 A (hereinafter '728) have been fully considered and they are persuasive. Therefore, the rejections have been withdrawn.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claims 1-7, 9, 12, 13, 15-18, 20 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of JP-2001-128728 A, hereinafter '728.**

9. As to claims 1-7, 9, 12, 13, 16-18, 20 and 22-23, Magnus discloses (see Fig. 5) a method of removing hair by using an epilator 1 comprising a tape 7, pressure device 20 for applying the tape against the skin, the tape is fed from the pressure device to the deflector devices 8 and the opposing corner of 8. The epilator also includes supply reels 2 and take-up reel 4 (col. 3, line 65 to col. 4, line 29).

Magnus discloses the invention substantially as claimed except for disclosing the two deflector elements are rollers, the drive motor which drive the take-up reel, and the drive motor is activated when the epilator apparatus is applied against the skin. However, in an alternative embodiment (Fig. 6) Magnus discloses using roller 33 as a deflector element instead of leaf spring. It has been held that substitution of one known element for another to obtain predictable result is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of applicant's invention, to replace the deflectors as disclosed in Fig. 5 with two rollers as disclosed in Fig. 6. Magnus discloses the invention substantially as claimed except for disclosing (1) the drive motor for driving the take-up reel, and (2) when the epilator apparatus is applied pressure against the skin activates the switch to activate the drive motor, thereby to drive the take-up reel.

10. As to item (1), however, Floessholzer discloses using drive motor to drive the supply and take up tape is old and well known in the art. It has been held that replacing mechanical component with electro-mechanical component to improve efficiency of the device is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of applicants' invention, to replace the thumb wheel 5 of Magnus et al with a drive motor to elimination the rotation force applied by user, thereby improving the effectiveness of the device. Note that with the incorporation of the motor, the modified device of Magnus would inherently provide the forward movement of the apparatus over the skin.

11. As to item (2), however, '728 discloses a device of removing hair from a skin, comprising, among other things: a pressure sensor for actuating the motor of the device (paragraph [0054] and [0057]). It would have been obvious to one of ordinary skill in the art, at the time of applicants' invention, to provide a pressure sensor mechanism to actuate the drive motor of Magnus/Floessholzer only when it is in the position that ready to operate, thereby improving the life of the battery, motor, and tape.

12. As to claim 15, the curved portion (see lead line 21, Fig. 5) is interpreted by the examiner as a hair alignment device disposed in front of the tape, such that the hair alignment device aligns hairs in the direction of movement prior to contact with the tape configured to adhere to hairs.

13. **Claims 16-18, 20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of Brown et al (US Pub. No. 2005/0234477).**

14. As claims 16-18, 20, 22 and 23, Magnus discloses (see Fig. 5) a method of removing hair by using an epilator 1 comprising a tape 7, pressure device 20 for applying the tape against the skin, the tape is fed from the pressure device to the deflector devices 8 and the opposing corner of 8. The epilator also includes supply reels 2 and take-up reel 4 (col. 3, line 65 to col. 4, line 29). Magnus discloses the invention substantially as claimed except for disclosing the two deflector elements are rollers, the drive motor which drive the take-up reel, and the drive motor is

activated when the epilator apparatus is applied against the skin. However, in an alternative embodiment (Fig. 6) Magnus discloses using roller 33 as a deflector element instead of leaf spring. It has been held that substitution of one known element for another to obtain predictable result is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of applicants' invention, to replace the deflectors as disclosed in Fig. 5 with rollers as disclosed in Fig. 6. Magnus discloses the invention substantially as claimed except for disclosing (1) the drive motor for driving the take-up reel and (2) when the epilator apparatus is applied pressure against the skin activates the switch to activate the drive motor, thereby to drive the take-up reel.

15. As to item (1), however, Floessholzer discloses using drive motor to drive the supply and take up tape is old and well known in the art. It has been held that replacing mechanical component with electro-mechanical component to improve efficiency of the device is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of applicants' invention, to replace the thumb wheel 5 of Magnus et al with a drive motor to elimination the rotation force applied by user, thereby improving the effectiveness of the device. Note that with the incorporation of the motor, the modified device of Magnus would inherently provide the forward movement of the apparatus over the skin.

16. As to item (2), however, Brown discloses a device of removing hair from a skin, comprising, among other things: wherein the motor driving the burr is controlled using a proximity switch so that the device does not need to be put down, and nor

does the switch need to be touched, to effect control of the motor (paragraph [0010]). It would have been obvious to one of ordinary skill in the art, at the time of applicants' invention, to provide a proximity sensor mechanism to actuate the drive motor of Magnus/Floessholzer only when it is in the position near the skin of the user to improve the effectiveness and conserving the resources of the device.

Allowable Subject Matter

17. Claims 8 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN V. NGUYEN whose telephone number is (571)272-5962. The examiner can normally be reached on M-F: 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 571-272-4357. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If there are any inquiries that are not being addressed by first contacting the Examiner or the Supervisor, you may send an email inquiry to TC3700_Workgroup_D_Inquiries@uspto.gov

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TUAN V NGUYEN/

Primary Examiner, Art Unit 3731